

Attorney Docket # 1022-11

Patent

REMARKS

Claims 4-8, 10-19, 21-22, 25-28 and 30-32 remain pending in this application with claims 4, 5, 10, 11, 12, 13, 18, 21, 22 and 30-32 being amended and claim 24 cancelled by this response.

Applicant wishes to thank the Examiner for the courtesy extended in the telephone interview on Wednesday, March 19, 2003.

Rejection of Claims 4, 11, 13, 19, 21, 22 and 31 under 35 U.S.C. 112, second paragraph

Claims 4, 11, 13, 19, 21, 22 and 31 stand objected to under 35 U.S.C. 112, second paragraph as being indefinite. Claims 4, 11, 13, 19, 21, 22 and 31 have been amended in accordance with the comments of the Examiner. Furthermore, the claims have been amended to recite at least one abrasive ingredient and at least one itch reducing ingredient. Support for these amendments is found on page 5, lines 18-19. In view of the amendments to claims 4, 11, 13, 19, 21, 22 and 31 it is respectfully submitted that this objection is satisfied and should be withdrawn.

Rejection of Claims 21, 22, 24-26, 28 and 30-32 under 35 U.S.C. 102(b)

Claims 21, 22, 24-26, 28 and 30-32 stand rejected under 35 U.S.C. 102(b) as being anticipated by Product Alert in light of Miner.

The claims have been amended to recite a pharmaceutical composition consisting of an abrasive ingredient and a carrier. Additionally, independent claims are also drawn to a pharmaceutical composition consisting of an abrasive ingredient, a carrier and one of an active ingredient, an itch reducing enzyme, an anesthetic and an aqueous pharmaceutical

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carrier. Each of the cited prior art require additional elements beyond these of the present claimed invention in order to perform their intended use.

In sum, the cited cosmetic related prior art do not disclose the same composition as claimed herein for a pharmaceutical use. In view of the amendments to the claims and the above remarks setting forth the distinguishing features of the present claimed invention, it is respectfully submitted that the presently disclosed inventive pharmaceutical composition is not "anticipated" under 35 U.S.C. 102(b) by Product Alert in light of Miner. Thus, it is further respectfully submitted that this rejection is satisfied and should be withdrawn.

Rejection of Claims 4-8, 10-19, 21, 22, 24-28 and 30-32 under 35 U.S.C. 103(a)

Claims 4-19 and 21-32 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Product Alert (1998) (i.e. NDM – a cosmetic composition), in light of Miner (2002) and in view of Tseng '634.

As discussed above regarding the rejection of claims 21, 22, 24-26 and 30-32 under 35 USC 102(b) as being unpatentable over Product Alert (1998) (i.e. NDM – a cosmetic composition), in light of Miner (2002) and in view of Tseng '634 the claims have been amended to recite a pharmaceutical composition consisting of an abrasive ingredient and a carrier. Additionally, independent claims are also drawn to a pharmaceutical composition consisting of an abrasive ingredient, a carrier and one of an active ingredient, an itch reducing enzyme, an anesthetic and an aqueous pharmaceutical carrier. Each of the cited prior art require additional elements beyond these of the present claimed invention in order to perform their intended use.

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In sum, the cited cosmetic related prior art do not disclose the same composition as claimed herein for a pharmaceutical use. In view of the amendments to the claims and the above remarks setting forth the distinguishing features of the present claimed invention, it is respectfully submitted that the presently disclosed inventive pharmaceutical composition is not "anticipated" under 35 U.S.C. 102(b) by Product Alert in light of Miner. Thus, it is further respectfully submitted that this rejection is satisfied and should be withdrawn.

In light of all the above respectfully submitted remarks and distinguishing features, together with the case citations, the applicant believes that the herein amended application containing claims 4-8, 10-19, 21-22, 25-28 and 30-32 patently distinguish over the cited prior art. In light of the clear inventive concepts of the present application, as set forth above, the applicant accordingly requests that Examiner Patten now reconsider the application and allow it, as amended, to pass to issue.

A Credit Card Authorization Form (PTO Form 2038) authorizing the charge of \$210.00 to the identified credit card to cover the fee for 5 extra independent claims beyond the three allowed and not previously paid for is included with this response. Should any additional fee be due, please also charge the additional fee to the credit card identified on the Credit Card Authorization Form (PTO Form 2038).

Based upon the foregoing amendments and remarks, it is respectfully submitted that the present application is in condition for allowance. Should the Examiner consider necessary or desirable any formal changes anywhere in the specification, claims and/or drawings, then it is respectfully asked that such changes be made by Examiner's amendment, if the Examiner feels this would facilitate passage of the case to issuance.

Alternatively, should the Examiner have any questions, comments, or feel that a

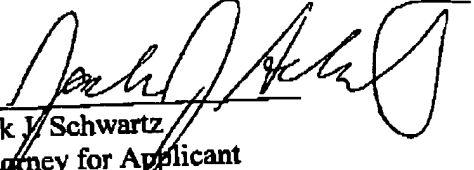
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personal discussion might be helpful in advancing this case to allowance and issuance, she is cordially invited to contact Mr. Jack J. Schwartz at 1350 Broadway, Suite 1507, New York, New York 10018, Tel. No. (212) 971-9017, so that the present application can receive an early notice of allowance. The address and telephone number for Jack J. Schwartz stated above is as listed on the original Power of Attorney.

In light of the foregoing, the application is now believed to be in proper form for allowance of all claims and notice to that effect is earnestly solicited.

Respectfully submitted,
Patrick Kennedy

By 
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